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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 Sade Renee El,

7 Plaintiff,

8 v.

9 Stephanie Charter, et al.,

10 Defendants.

Case No. 2:21-cv-01910-CDS-DJA

Report and Recommendation

11 Plaintiff Sade Renee El is proceeding *pro se* and *in forma pauperis*. After the Court
12 granted Plaintiff's motion to proceed *in forma pauperis*, it recommended dismissing her
13 complaint for failure to state a claim. (ECF No. 11). It recommended dismissing her claims
14 brought under 18 U.S.C. §§ 241, 242, 1512, and 2071 with prejudice because the statutes do not
15 provide a private cause of action. (*Id.* at 8). It recommended dismissing Defendants the Eighth
16 Judicial District Court, Judge Stephanie Charter, Clark County District Attorney Steve Wolfson,
17 Judge Belinda T. Harris, Hearing Master Adriana Rincon White, and Clerk of Court Steve
18 Gierson with prejudice, finding that these Defendants are immune. (*Id.*). It recommended
19 dismissing her claims brought under 42 U.S.C. § 1985(3) without prejudice because her
20 allegations that Defendants were somehow involved in the wrongful placement of her child in
21 protective services were conclusory. (*Id.* at 6). Finally, it liberally construed Plaintiff as alleging
22 unreasonable search and seizure, unlawful arrest, and due process violation claims, but
23 recommended dismissing those claims without prejudice because Plaintiff did not provide enough
24 facts to support them. (*Id.* at 7).

25 Plaintiff timely filed an amended complaint. (ECF No. 15). However, it suffers from the
26 same deficiencies as her previous complaint. The Court thus recommends dismissing Plaintiff's
27 amended complaint.
28

I. Screening standard.

Federal courts are given the authority to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). When a court dismisses a complaint under § 1915, the plaintiff should be given leave to amend the complaint with directions as to curing its deficiencies, unless it is clear from the face of the complaint that the deficiencies could not be cured by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

Rule 12(b)(6) of the Federal Rules of Civil Procedure provides for dismissal of a complaint for failure to state a claim upon which relief can be granted. Review under Rule 12(b)(6) is essentially a ruling on a question of law. *See Chappel v. Lab. Corp. of Am.*, 232 F.3d 719, 723 (9th Cir. 2000). A properly pled complaint must provide a short and plain statement of the claim showing that the pleader is entitled to relief. Fed.R.Civ.P. 8(a)(2); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). Although Rule 8 does not require detailed factual allegations, it demands “more than labels and conclusions” or a “formulaic recitation of the elements of a cause of action.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Papasan v. Allain*, 478 U.S. 265, 286 (1986)). The court must accept as true all well-pled factual allegations contained in the complaint, but the same requirement does not apply to legal conclusions. *Iqbal*, 556 U.S. at 679. Mere recitals of the elements of a cause of action, supported only by conclusory allegations, do not suffice. *Id.* at 678. Secondly, where the claims in the complaint have not crossed the line from conceivable to plausible, the complaint should be dismissed. *Twombly*, 550 U.S. at 570. Allegations of a *pro se* complaint are held to less stringent standards than formal pleadings drafted by lawyers. *Hebbe v. Pliler*, 627 F.3d 338, 342 & n.7 (9th Cir. 2010) (finding that liberal construction of *pro se* pleadings is required after *Twombly* and *Iqbal*).

Plaintiff has not cured the deficiencies the Court noted when recommending dismissal of her prior complaint. The Court thus recommends dismissing her amended complaint. Other than Steve Gierson, Plaintiff has re-named each of the defendants the Court recommended be dismissed from the action with prejudice because they are immune. (ECF No. 15). But Plaintiff

1 has not alleged any facts to support the conclusion that the conduct of these defendants exceeded
2 the boundaries of the absolute immunity applicable to the judiciary and prosecutors. Instead, her
3 allegations are again conclusory. The remainder of Plaintiff's claims—some apparently asserted
4 against newly-added Defendant Officer P. Anderson—are too conclusory to constitute claims
5 upon which relief can be granted. Moreover, Plaintiff appears to again base some of her claims
6 on criminal statutes that the Court already recommended dismissing with prejudice because they
7 do not provide private causes of action. Because her complaint contains the same deficiencies the
8 Court has already pointed out in its previous screening recommendation (ECF No. 11), it does not
9 reiterate them here.

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11 **IT IS THEREFORE RECOMMENDED** that Plaintiff's amended complaint (ECF No.
12 15) be **dismissed without prejudice**.

13 **IT IS FURTHER RECOMMENDED** that Plaintiff be given leave to file a third
14 amended complaint to the extent she believes she can cure the noted deficiencies.

15 **NOTICE**

16 This report and recommendation is submitted to the United States District Judge assigned
17 to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation
18 may file a written objection supported by points and authorities within fourteen days of being
19 served with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely
20 objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951 F.2d
21 1153, 1157 (9th Cir. 1991).

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23 DATED: July 27, 2022

24 
25 DANIEL J. ALBRECHTS
26 UNITED STATES MAGISTRATE JUDGE
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